

House Study Bill 659

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the standards applicable to Iowa for purposes
2 of imposing a business activity tax and including an
3 applicability date provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5681HC 80
6 mg/gg/14

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1 1 Section 1. NEW SECTION. 422.125 SHORT TITLE.
1 2 This division shall be known as and may be cited as the
1 3 "Business Activity Tax Simplification Act".
1 4 Sec. 2. NEW SECTION. 422.126 BUSINESS ACTIVITY TAX ==
1 5 DEFINITION.
1 6 1. As used in this division, unless the context otherwise
1 7 requires, a "business activity tax" means any of the
1 8 following:
1 9 a. A tax imposed on, or measured by, net income.
1 10 b. A tax imposed on, or measured by, gross receipts, gross
1 11 income, or gross profits.
1 12 c. A business license tax.
1 13 d. A business and occupation tax.
1 14 e. A franchise tax.
1 15 f. A single business tax or a capital stock tax.
1 16 g. Any other tax imposed by Iowa on a business for the
1 17 right to do business in the state or measured by the amount
1 18 of, or economic results of, business or related activity
1 19 conducted in the state.
1 20 "Business activity tax" does not include a transaction tax.
1 21 2. Business activity taxes to which this division applies
1 22 include, but are not limited to, all of the following:
1 23 a. Personal income tax under chapter 422, division II.
1 24 b. Corporate income tax under chapter 422, division III.
1 25 c. Franchise tax on financial institutions under chapter
1 26 422, division V.
1 27 d. Gross premiums tax on insurance companies or
1 28 associations under chapters 432, 432A, 518, and 518A.
1 29 Sec. 3. NEW SECTION. 422.127 APPLICATION OF PUBLIC LAW
1 30 86=272.
1 31 The principal behind Pub. L. No. 86=272, 15 U.S.C. } 381 et
1 32 seq., relating to the ability of states to impose a net income
1 33 tax on income derived from interstate commerce, shall apply to
1 34 the authority of Iowa to impose a business activity tax with
1 35 respect to all sales of tangible and intangible property.
2 1 Sec. 4. NEW SECTION. 422.128 STANDARD FOR BUSINESS
2 2 ACTIVITY TAXES.
2 3 1. IN GENERAL. Except as otherwise provided in this
2 4 division, a person shall not be subject to a business activity
2 5 tax imposed by this state unless that person has a physical
2 6 presence in this state during the taxable period with respect
2 7 to which the tax is imposed.
2 8 2. REQUIREMENTS FOR PHYSICAL PRESENCE. Except as
2 9 otherwise provided in this division, for the purposes of
2 10 subsection 1, a person has a physical presence in this state
2 11 only if that person's business activities within this state
2 12 include any of the following:
2 13 a. Being an individual physically located within this
2 14 state, or assigning one or more employees to be in this state,
2 15 on more than twenty=one days. However, the following shall be
2 16 disregarded in determining whether this twenty=one=day maximum
2 17 time limit has been exceeded:
2 18 (1) Activities in connection with a possible purchase of
2 19 goods or services for the business.
2 20 (2) Gathering news and covering events for print,
2 21 broadcast, or other distribution through the media.

2 22 (3) Meeting government officials for purposes other than
2 23 selling goods or services.
2 24 (4) Participation in educational or training conferences,
2 25 seminars, or other similar functions.
2 26 (5) Participating in charitable activities.
2 27 b. Using the services of another person, except an
2 28 employee, in this state on more than twenty-one days to
2 29 establish or maintain the market in this state, unless that
2 30 other person performs similar functions on behalf of at least
2 31 one additional business entity during the taxable year.
2 32 c. The leasing or owning of tangible personal property or
2 33 real property in this state on more than twenty-one days.
2 34 However, the following shall be disregarded in determining
2 35 whether the twenty-one-day maximum time limit has been
3 1 exceeded:
3 2 (1) Tangible property located in this state for purposes
3 3 of being assembled, manufactured, processed, or tested by
3 4 another person for the benefit of the owner or lessee, or used
3 5 to furnish a service to the owner or lessee by another person.
3 6 (2) Marketing or promotional materials distributed in this
3 7 state using mail or a common carrier, or as inserts in or
3 8 components of publications.
3 9 (3) Any property to the extent used ancillary to an
3 10 activity excluded from the computation of the twenty-one-day
3 11 maximum time period under paragraph "a" or "b".
3 12 3. TAXABLE PERIODS NOT A YEAR. If the taxable period of
3 13 the taxpayer for which the tax is imposed is not a year, then
3 14 any requirements expressed in days in subsection 2 for
3 15 establishing physical presence under this division shall be
3 16 adjusted proportionately to reflect the actual taxable period.
3 17 4. EXCEPTIONS. The following are exceptions to the
3 18 provisions of subsection 1 or 2, as specified:
3 19 a. PERSONS DOMICILED IN THE STATE. Subsection 1 does not
3 20 apply with respect to either of the following:
3 21 (1) A person, other than an individual, who is
3 22 incorporated or formed under the laws of this state or
3 23 commercially domiciled in this state.
3 24 (2) An individual who is domiciled in this state.
3 25 b. EXCEPTION RELATING TO CERTAIN EVENTS. With respect to
3 26 the taxation of any of the following, subsection 2 shall be
3 27 read to require a physical presence of only one day in this
3 28 state in any of the following circumstances:
3 29 (1) A live performance in this state before a live
3 30 audience of more than one hundred individuals.
3 31 (2) A live sporting event in this state before more than
3 32 one hundred spectators present at the event.
3 33 (3) The sale within this state of tangible personal
3 34 property, where delivery of the property originates and is
3 35 completed within the state.
4 1 (4) The performance of services to real property within
4 2 the state.
4 3 c. TAXATION OF PARTNERS AND SIMILAR PERSONS. If this
4 4 state is not prohibited by this section from taxing an entity
4 5 that is a partnership, S corporation, limited liability
4 6 company, trust, or an estate, or other similar entity, this
4 7 state is also not prohibited by this section from taxing the
4 8 owners or beneficiaries of such entity.
4 9 Sec. 5. APPLICABILITY DATE. This Act applies to taxable
4 10 years beginning on or after January 1, 2005.
4 11 EXPLANATION
4 12 This bill provides that beginning January 1, 2005, no
4 13 person shall be subject to a business activity tax imposed by
4 14 Iowa unless such person has a physical presence in the state
4 15 of more than 21 days, unless the person is an entertainer or
4 16 sports participant who attends a one-day event in Iowa where
4 17 the audience totals at least 100 people. The 21-day maximum
4 18 period also does not apply to sales of property originated and
4 19 completed in this state or the performance of services to real
4 20 property within this state. In counting the 21-day maximum
4 21 period, activities that involve possible purchase of goods,
4 22 gathering or covering of media events, meeting government
4 23 officials, or participating in educational or training
4 24 seminars or charitable events are not counted. The physical
4 25 presence requirement does not apply if the business is
4 26 incorporated or formed under Iowa laws or is commercially
4 27 domiciled in Iowa or the individual is domiciled in Iowa.
4 28 A business activity tax is a net income tax, gross receipts
4 29 or profits tax, business license tax, franchise tax, business
4 30 and occupation tax, single business tax, capital stock tax, or
4 31 other tax on the right to do business in Iowa or a tax
4 32 measured on business activity conducted in Iowa. This tax

4 33 would include, but it not limited to, Iowa's individual and
4 34 corporate incomes taxes, franchise tax on financial
4 35 institutions, and gross insurance premiums taxes.
5 1 The bill applies to taxable years beginning on or after
5 2 January 1, 2005.
5 3 LSB 5681HC 80
5 4 mg/gg/14